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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TRACEY KOONCE, an individual,  
  
Plaintiff,  
  
vs.

Case No.:

MGM GRAND HOTEL, LLC, a Nevada  
Limited Liability Company; DOES I-X,  
inclusive; and ROE CORPORATIONS I-  
X, inclusive,  
  
Defendants.

**COMPLAINT**

Plaintiff TRACEY KOONCE, by and through her attorneys of record, ADAM R. FULTON, ESQ. and LOGAN G. WILLSON, ESQ., of the law firm of JENNINGS & FULTON, LTD., hereby files this Complaint against Defendants MGM GRAND HOTEL, LLC, DOES I-X, and ROE CORPORATIONS I-X and alleges as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff TRACEY KOONCE is an individual that at all relevant times herein was a resident of Clark County, Nevada.

2. Defendant MGM GRAND HOTEL, LLC ("MGM") is a Nevada Limited Liability Company conducting business in Clark County, Nevada at all relevant times herein.



1 forth herein.

2 10. Ms. Koonce began her employment at MGM as a Supervisor in 2004, and was  
3 promoted to her most recent position as an Assistant Slot Shift Manager.

4 11. Ms. Koonce was an exemplary employee for nearly two (2) decades.

5 12. On August 16, 2021, MGM Resorts International (“MRI”) announced that all  
6 salaried employees and all new hires employed at any MRI subsidiary, including MGM, must be  
7 fully vaccinated from Covid-19 by October 15, 2021 (“Vaccination Mandate”).

8 13. MGM required all salaried employees and new hires who did not work exclusively  
9 from home to receive a Covid-19 vaccination by October 15, 2021.

10 14. Ms. Koonce timely submitted her religious exemption (“Religious Exemption”)  
11 identifying her sincerely held religious beliefs as an Evangelical Christian.

12 15. Ms. Koonce specifically identified, that as an Evangelical Christian, she observes  
13 and holds a deep belief against all vaccines and has never received any vaccines in her entire life.

14 16. Ms. Koonce then inquired about the timing to submit additional documentation in  
15 support of her Religious Exemption.

16 17. MGM confirmed and provided until September 24, 2021 to provide information in  
17 support of her religious exemption.

18 18. MGM then requested Ms. Koonce answer its questionnaire.

19 19. On September 17, 2021, Ms. Koonce provided additional documentation  
20 demonstrating her sincerely held religious beliefs outlining:

21 1) That she has an ethical, moral, and sincerely held religious belief that her  
22 body is temple of the Holy Spirit and to have something injected in her that may  
23 harm her body goes against her trust in the Lord Jesus Christ.

24 2) She was born and baptized as a Christian which symbolizes her  
25 acceptance of Jesus Christ as her Lord and Savior, and the teachings of the Holy  
26 Bible.

27 3) That she observes the Christian faith and the teachings of the Holy Bible.  
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2 20. MGM then issued a letter to Ms. Koonce indicating that her Religious Exemption  
3 could not be accepted as it would impose an undue hardship on the MGM's legitimate business  
4 interests.

5 21. Ms. Koonce followed up on MGM's decision and was informed, "The Company's  
6 decision on your religious accommodation is final." *See* Exhibit 7.

7 22. MGM summarily concluded that granting the Religious Exemption would be an  
8 undue hardship and gave Ms. Koonce until October 15, 2021, to get fully vaccinated.

9 23. Due to her sincerely held religious beliefs, Ms. Koonce did not get vaccinated,  
10 objected to MGM's response, and was subsequently terminated based on the same.

11 24. MGM subjected Ms. Koonce to disparate treatment because of her religion that  
12 unvaccinated hourly MGM employees were not subject to.

13 25. Ms. Koonce belonged to a protected class.

14 26. Ms. Koonce was qualified to and performed her job satisfactorily for numerous  
15 years and suffered adverse employment action simply because of her religion.

16 27. Similarly situated individuals outside of Ms. Koonce's protected class were treated  
17 more favorably by not being subject to MGM's Vaccination Mandate.

18 28. MGM separated its employees, specifically Ms. Koonce, who submitted religious  
19 exemptions into their own separate class based on sincerely held religious beliefs.

20 29. There was no undue hardship to MGM because Ms. Koonce would have continued  
21 to exercise social distancing, worn masks, and subject herself to Covid-19 testing.

22 30. Moreover, MGM provided on-site Covid-19 testing for employees, making it  
23 feasible for Ms. Koonce to receive testing on property.

24 31. Notably, non-salaried employees were not subject to the Vaccination Mandate  
25 despite working for various MRI properties.  
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1 32. Moreover, MGM no longer maintains the Vaccination Mandate for salaried  
2 employees.

3 33. If the Vaccination Mandate was for safety, it would be applied across the board, not  
4 simply to salaried employees who make up a fraction of all MGM employees.

5 34. As a direct and proximate result of the aforementioned acts and/or omissions, MGM  
6 violated Title VII and NRS 613.330, and retaliated against Plaintiff.

7 35. Plaintiff has been forced to hire an attorney to prosecute this action and therefore  
8 seek recovery of her attorneys' fees and costs.

9  
10 **FIRST CLAIM FOR RELIEF**

11 **(Discrimination on the Basis of Religion in Violation of Title VII, 42 U.S.C § 2000e, *et seq.*)**

12 36. Plaintiff incorporates the allegations in the preceding paragraphs as though fully set  
13 forth herein.

14 37. After MGM implemented the Vaccination Mandate, Ms. Koonce timely submitted  
15 her Religious Exemption and her response to MGM's questionnaire, MGM denied Ms. Koonce's  
16 Religious Exemption and subsequently terminated her.

17 38. Due to her sincerely held religious beliefs, Ms. Koonce did not get vaccinated,  
18 objected to MGM's response, and was subsequently terminated based on the same.

19 39. MGM subjected Ms. Koonce to disparate treatment because of her religion that  
20 unvaccinated hourly MGM employees were not subject to.

21 40. Ms. Koonce belonged to a protected class.

22 41. Ms. Koonce was qualified to and performed her job satisfactorily for numerous  
23 years and suffered adverse employment action simply because of her religion.

24 42. Similarly situated individuals outside of Ms. Koonce's protected class were treated  
25 more favorably by not being subject to MGM's Vaccination Mandate.

1 43. MGM separated its employees, specifically Ms. Koonce, who submitted religious  
2 exemptions into their own separate class based on sincerely held religious beliefs.

3 44. There was no undue hardship to MGM because Ms. Koonce would have continued  
4 to exercise social distancing, worn masks, and subject herself to Covid-19 testing.

5 45. Moreover, MGM provided on-site Covid-19 testing for employees, making it  
6 feasible for Ms. Koonce to receive testing on site.

7 46. Notably, non-salaried employees were not subject to the Vaccination Mandate  
8 despite working for various MGM properties.

9 47. Moreover, MGM no longer maintains the Vaccination Mandate for salaried  
10 employees.

11 48. If the Vaccination Mandate was for safety, it would be applied across the board, not  
12 simply to salaried employees who make up a fraction of all MGM employees.

13 49. MGM subjected Ms. Koonce to unequal terms and conditions of employment due to  
14 her religion in violation of Title VII, 42 U.S.C § 2000e, *et seq.*

15 50. Plaintiff has been forced to hire an attorney to prosecute this action and therefore  
16 seek recovery of her attorneys' fees and court costs.

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19 **SECOND CLAIM FOR RELIEF**

20 **(Retaliation in Violation of Title VII, 42 U.S.C § 2000e, *et seq.*)**

21 51. Plaintiff incorporates the allegations in the preceding paragraphs as though fully set  
22 forth herein.

23 52. After MGM implemented the Vaccination Mandate, Ms. Koonce timely submitted  
24 her Religious Exemption and her response to MGM's questionnaire, MGM denied Ms. Koonce's  
25 Religious Exemption and subsequently terminated her.

26 53. Due to her sincerely held religious beliefs, Ms. Koonce did not get vaccinated,  
27  
28

1 objected to MGM's response, and was subsequently terminated based on the same.

2 54. MGM subjected Ms. Koonce to disparate treatment because of her religion that  
3 unvaccinated hourly MGM employees were not subject to.

4 55. Ms. Koonce belonged to a protected class.

5 56. Ms. Koonce was qualified to and performed her job satisfactorily for numerous  
6 years and suffered adverse employment action simply because of her religion.

7 57. Similarly situated individuals outside of Ms. Koonce's protected class were treated  
8 more favorably by not being subject to MGM's Vaccination Mandate.

9 58. MGM separated its employees, specifically Ms. Koonce, who submitted religious  
10 exemptions into their own separate class based on sincerely held religious beliefs.

11 59. There was no undue hardship to MGM because Ms. Koonce would have continued  
12 to exercise social distancing, worn masks, and subject herself to Covid-19 testing.

13 60. Moreover, MGM provided on-site Covid-19 testing for employees, making it  
14 feasible for Ms. Koonce to receive testing on site.

15 61. Notably, non-salaried employees were not subject to the Vaccination Mandate  
16 despite working for various MGM properties.

17 62. Moreover, MGM no longer maintains the Vaccination Mandate for salaried  
18 employees.

19 63. If the Vaccination Mandate was for safety, it would be applied across the board, not  
20 simply to salaried employees who make up a fraction of all MGM employees.

21 64. MGM retaliated against Ms. Koonce in violation of Title VII, 42 U.S.C § 2000e, *et*  
22 *seq.*

23 65. Plaintiff has been forced to hire an attorney to prosecute this action and therefore  
24 seek recovery of her attorneys' fees and court costs.  
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**THIRD CLAIM FOR RELIEF**

**(Discrimination on the Basis of Religion in Violation of NRS 613.330)**

66. Plaintiff incorporates the allegations in the preceding paragraphs as though fully set forth herein.

67. Pursuant to the provisions of NRS 613.330(1)(a), it is an unlawful employment practice for an employer to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her religion.

68. Pursuant to the provisions of NRS 613.330(1)(a), it is an unlawful employment practice for an employer to adversely affect an employee's status because of his or her religion.

69. After MGM implemented the Vaccination Mandate, Ms. Koonce timely submitted her Religious Exemption and her response to MGM's questionnaire, MGM denied Ms. Koonce's Religious Exemption and subsequently terminated her.

70. Due to her sincerely held religious beliefs, Ms. Koonce did not get vaccinated, objected to MGM's response, and was subsequently terminated based on the same.

71. MGM subjected Ms. Koonce to disparate treatment because of her religion that unvaccinated hourly MGM employees were not subject to.

72. Ms. Koonce belonged to a protected class.

73. Ms. Koonce was qualified to and performed her job satisfactorily for numerous years and suffered adverse employment action simply because of her religion.

74. Similarly situated individuals outside of Ms. Koonce's protected class were treated more favorably by not being subject to MGM's Vaccination Mandate.

75. MGM separated its employees, specifically Ms. Koonce, who submitted religious exemptions into their own separate class based on sincerely held religious beliefs.





1 objected to MGM's response, and was subsequently terminated based on the same.

2 87. MGM subjected Ms. Koonce to disparate treatment because of her religion that  
3 unvaccinated hourly MGM employees were not subject to.

4 88. Ms. Koonce belonged to a protected class.

5 89. Ms. Koonce was qualified to and performed her job satisfactorily for numerous  
6 years and suffered adverse employment action simply because of her religion.

7 90. Similarly situated individuals outside of Ms. Koonce's protected class were treated  
8 more favorably by not being subject to MGM's Vaccination Mandate.

9 91. MGM separated its employees, specifically Ms. Koonce, who submitted religious  
10 exemptions into their own separate class based on sincerely held religious beliefs.

11 92. There was no undue hardship to MGM because Ms. Koonce would have continued  
12 to exercise social distancing, worn masks, and subject herself to Covid-19 testing.

13 93. Moreover, MGM provided on-site Covid-19 testing for employees, making it  
14 feasible for Ms. Koonce to receive testing on site.

15 94. Notably, non-salaried employees were not subject to the Vaccination Mandate  
16 despite working for various MGM properties.

17 95. Moreover, MGM no longer maintains the Vaccination Mandate for salaried  
18 employees.

19 96. If the Vaccination Mandate was for safety, it would be applied across the board, not  
20 simply to salaried employees who make up a fraction of all MGM employees.

21 97. MGM retaliated against Ms. Koonce in violation of NRS 613.330.

22 98. Plaintiff has been forced to hire an attorney to prosecute this action and therefore  
23 seek recovery of her attorneys' fees and court costs.

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**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays as follows:

1. For judgment against Defendants for Plaintiff's compensatory damages, together with interest thereon until entry of judgment;
2. For judgment against Defendants for Plaintiff's lost wages and backpay, together with interest thereon until entry of judgment;
3. For an award of punitive damages against MGM for its violation of Title VII and NRS 613.330, together with interest thereon until entry of judgment;
4. For entry of an order compelling Defendant to pay Plaintiff's costs and attorneys' fees;
5. Consequential and incidental damages according to proof at trial;
6. For special damages; and
7. For such other and further relief as the Court may deem just and proper.

DATED: December 13th, 2022

**JENNINGS & FULTON, LTD.**

By: /s/ Adam R. Fulton, Esq.  
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# EXHIBIT 1



## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Los Angeles District Office  
255 East Temple St, 4th Floor  
Los Angeles, CA 90012  
(213) 785-3090  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 09/16/2022

To: Tracey Koonce

Charge No: 487-2022-00278

EEOC Representative and email: Michelle Silvers  
Investigator  
[michelle.silvers@eeoc.gov](mailto:michelle.silvers@eeoc.gov)

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### **DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 487-2022-00278.

On behalf of the Commission,

Digitally Signed By: Christine Park-Gonzalez  
09/16/2022

---

Christine Park-Gonzalez  
Acting District Director

**Cc:**

Ashley Eddy  
MGM Grand (MGM Grand Hotel, LLC dba MGM Grand)  
6385 S. Rainbow Blvd., Suite 500  
Las Vegas, NV 89118

Kyle Hoyt  
Jackson Lewis P.C.  
300 S 4TH ST STE 900  
Las Vegas, NV 89101

Logan Willson  
Jennings & Fulton Law Firm  
2580 Sorrell Street  
Las Vegas, NV 89146

Please retain this notice for your records.

Enclosure with EEOC Notice of Closure and Rights (01/22)

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

**IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT**

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

**ATTORNEY REPRESENTATION**

For information about locating an attorney to represent you, go to:  
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

**HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS**

There are two ways to request a charge file: 1) a FOIA Request or 2) a Section 83 request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your request for the charge file promptly to allow sufficient time for EEOC to respond and for your review. Submit a signed written request stating it is a "FOIA Request" or a "Section 83 Request" for Charge Number 487-2022-00278 to the District Director at Christine Park-Gonzalez, 255 East Temple St 4th Floor

Los Angeles, CA 90012.

You can also make a FOIA request online at <https://eeoc.arkcase.com/foia/portal/login>.

Enclosure with EEOC Notice of Closure and Rights (01/22)

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA Requests and Section 83 Requests, go to:  
<https://www.eeoc.gov/eeoc/foia/index.cfm>.